

REMARKS

Reconsideration is requested.

Claims 1-51 are pending. Claims 36-51 have been added. No new matter has been added. Basis for the new claims may be found, for example, in the originally-filed claims.

The Examiner is requested to hold the provisional obviousness-type double patenting rejection of Claims 1-2, 5-6, 9, 13, 16-17 and 20-35 over claims 1, 12, 13, 15, 16, 18, 20-24, 31-36, 38, 40-46 and 48-50 of co-pending application Serial No. 10/304,793, in abeyance until allowable claims are indicated. The applicants note that the cited application has been published as U.S. Patent Application Publication No. US 2003/0124074 A1.

The Section 112, second paragraph, rejection of claims 2-29 based on the recitation of "characterized in that" is traversed. The phrase is a well-known and well-understood phrase in the patent literature. In fact, the Examiner's Supervisor, i.e., Padmanabhan, is listed as Primary Examiner on 33 issued patents where a transition "characterizing" phrase has been issued in at least one claim. A list of the 33 patents from the USPTO web site and a sample of claims from the first seven (7) listed patents are attached as evidence of the well-known and well-recognized use of such phrases. Reconsideration and withdrawal of the Section 112, second paragraph, rejection of claims 2-29, stated in § (i) spanning pages 3-4 of the Office Action dated October 23, 2003 (Paper No. 7) are requested.

The terms objected to in §§ (ii) and (iii) on page 4 of Paper No. 7 have been deleted, to advance prosecution by obviating the Section 112, second paragraph

rejections of claims 3, 4 and 14-15 based on the same. Withdrawal of these aspects of the Section 112, second paragraph, rejection are requested.

The alternative ranges of the claims objected to in §(iv) on pages 4-5 of Paper No. 7 have been made the subject matter of further dependent claims. Withdrawal of the Section 112, second paragraph, rejection of the claims based on the rejections articulated in §(iv) is requested.

Claim 29 has been amended above to advance prosecution by obviating the Section 112, second paragraph, rejection of the same articulated in §(v) on page 5 of Paper No. 7. Withdrawal of the rejection is requested.

Claims 1-11 have been amended to recite an active method step based on the disclosure, for example, at page 3, lines 11-21 of the specification. No new matter has been added. The amendment obviates the Examiner's Section 112, second paragraph, and Section 101 rejections of claims 1-11 and 33-35 stated on page 5 in §(vi) of the Office Action dated October 23, 2003. Withdrawal of the rejections are requested.

Claim 1 and 12 have been amended to clarify some recitations in the dependent claims. No new matter has been added. The basis for the Section 112, second paragraph, rejection stated in §(vii) on page 5 of Paper No. 7 is obviated by the above amendments.

Reconsideration and withdrawal of the Section 112, second paragraph, rejection of claims 1-35 are requested.

The Section 102 rejection of Claims 12-16, 18, 20-29 and 31-32 over Kuentz (U.S. Patent No. 5,711,940), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing remarks.

The subject-matter of the present patent application is the cosmetic use of block ethylenic copolymers of elastic nature, comprising:

(a) at least one rigid block (A) having a glass transition temperature (T_g) of greater than or equal to 20°C , consisting of units derived from one or more ethylenic monomers, and,

(b) at least one flexible block (B) having a glass transition temperature (T_g) of less than 20°C , consisting of units derived from one or more ethylenic monomers,

said copolymers allowing the production of a film having an instantaneous recovery of between 5% and 100%

with the exclusion of block copolymers having flexible blocks consisting exclusively of ethylene, propylene, butylene, butadiene and/or isoprene units

This patent application also deals with cosmetic compositions comprising, in a physiologically acceptable medium, at least one block ethylenic copolymer of elastic nature as mentioned above.

These block ethylenic copolymers are preferably obtained by controlled free-radical polymerization.

The cited patent describes a method for preparing a stable microdispersion of particles of acrylic polymers.

A block polymer based on PMMA and PtBuA is used as a stabilizer in the preparation of a microdispersion of particles of acrylic polymer.

Example 7 deals with a three-block copolymer of the PtBuA-b-PMMA -b-PtBuA type. This copolymer does not enter the definition of the block ethylenic copolymers of elastic nature used according to the presently claimed invention, because it is made of

PMMA ($T_g=100^{\circ}\text{C}$) and PtBuA ($T_g=107^{\circ}\text{C}$). See, attached. The applicants submit that none of these polymers have a $T_g \leq 20^{\circ}\text{C}$, as required by the presently claimed invention.

The PtBuA-b-PMMA-b-PtBuA copolymer mentioned in example 7 of the cited document is completely different from PMMA-b-PtBuA-b-PMMA copolymer used in the presently claimed invention as a preferred copolymer.

Moreover, the copolymers used in the cosmetic compositions according to the presently claimed invention are defined with two distinct features: the sequence of the block polymers and the instantaneous recovery.

These two features are distinct in that the specification at page 8, lines 6-10, for example, describes that "the value of the instantaneous recovery depends on many factors such as the nature, number, arrangement and relative proportion of the rigid and flexible blocks, or alternatively the molar mass of the polymer".

As far as the cited patent does not mention the process carried out to obtain PMMA-b-PtBuA and PtBuA-b-PMMA-b-PtBuA, it is not possible to determine their instantaneous recovery.

The cosmetic compositions and methods of the presently claimed invention are not taught or suggested by the cited art. Claims 12-16, 18, 20-29 and 31-32 are submitted to be patentable over the cited art. Withdrawal of the Section 102 rejection of the same over Kuentz is requested.

The Section 102 rejection of Claims 12-21, 24, 28 and 29 over Varshney (U.S. Patent No. 5,264,527), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing remarks.

This patent describes triblock copolymers comprising at least one acrylic block and their preparation process comprising a step of anionic polymerization. These copolymers may be used to prepare elastomeric articles.

Example 18, described in column 10, deals with the preparation of triblock polymer of the PMMA-b-PtBuA-b-PMMA type.

This copolymer made of PMMA ($T_g=100^{\circ}\text{C}$) and PtBuA ($T_g = 107^{\circ}\text{C}$) does not fall within the definition of the block ethylenic copolymers of elastic nature used according to the presently claimed invention. The claims are patentable over the cited art.

The Examiner has inappropriately read the term "cosmetic" out of the claim apparently because the term is in the "preamble". Such a formalistic approach to construing claims is submitted, with due respect, to be inappropriate. The only use remotely mentioned in the cited patent for the disclosed copolymers is "for the manufacture of elastomeric articles." See, column 1, lines 38-39 of the patent. Moreover, the Examiner has not indicated wherein the cited patent teaches a cosmetic composition of the present claims, which also contain a physiologically acceptable medium.

To establish a *prima facie* case of anticipation, the Examiner must demonstrate that each and every aspect of the claimed invention is provided by a cited reference. The Examiner has not indicated where the cited patent describes the presently claimed cosmetic use and the presently claimed cosmetic compositions. Without such a showing, the Section 102 rejection should be withdrawn.

MOUGIN, Nathalie
Appl. No. 10/031,233
January 23, 2004

Withdrawal of the Section 102 rejection of Claims 12-21, 24, 28 and 29 over Varshney (U.S. Patent No. 5,264,527) is requested.

The Section 103 rejection of claim 30 over Kuntz in view of Lang (U.S. Patent No. 4,726,942), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the above as Lang fails to cure the above-noted deficiencies of Kuntz. Withdrawal of the Section 103 rejection of claim 30 is requested.

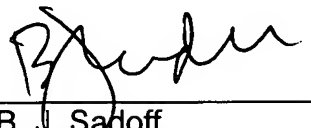
The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

The Examiner is requested to contact the undersigned in the event anything further is required.

Respectfully submitted,

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Reference: Polymer Properties

Thermal Transitions of Homopolymers: Glass Transition & Melting Point

Literature values for the glass transition temperature, (T_g), and melting temperature, (T_m), are given in Table I for the more common homopolymers. Polymers are listed by the repeating unit in the polymer chain. These polymers and corresponding monomers are available from Aldrich. Literature values for a given material can vary widely. The values re-

ported in Table I have been taken from various sources and represent the most commonly reported numbers.¹ Several factors can influence the reported values, including molecular weight, molecular weight distribution, tacticity, thermal history, purity, and method of measurement.

Table I: Thermal Transitions of Homopolymers: Glass Transition (T_g) & Melting Point (T_m) Temperatures

Repeating Unit	T_g (°C)	T_m (°C)	Repeating Unit	T_g (°C)	T_m (°C)
Acenaphthylene	214		<i>N,N</i> -Dimethylacrylamide	89	
Acetaldehyde	-32	165	Dimethylaminoethyl methacrylate	19	-
4-Acetoxystyrene	116		2,6-Dimethyl-1,4-phenylene oxide	167	
Acrylamide	165		Dimethylsiloxane	-127	-40
Acrylic acid	105		2,4-Dimethylstyrene	112	
Acrylonitrile, syndiotactic	125	319	2,5-Dimethylstyrene	143	
Allyl glycidyl ether	-78		3,5-Dimethylstyrene	104	
Benzyl acrylate	6		Dodecyl acrylate	-3	
Benzyl methacrylate	54		Dodecyl methacrylate	-65	
Bisphenol A- <i>alt</i> -epichlorohydrin	100		Dodecyl vinyl ether	-82	
Bisphenol A terephthalate	205		Epibromohydrin	-14	
Bisphenol carbonate	174		Epichlorohydrin	-22	
Bisphenol F carbonate	147		1,2-Epoxybutane	-70	
Bisphenol Z carbonate	175		1,2-Epoxydecane	-70	
4-Bromostyrene	118		1,2-Epoxyoctane	-67	
<i>cis</i> -Butadiene	102	1	2-Ethoxyethyl acrylate	-50	
<i>trans</i> -Butadiene	-58	148	4-Ethoxystyrene	86	
1-Butene	-24	171	Ethyl acrylate	-24	
<i>N-tert</i> -Butylacrylamide	128		Ethyl cellulose	43	
Butyl acrylate	-54		Ethylene, HDPE	-125	130
<i>sec</i> -Butyl acrylate	-26		Ethylene adipate	-46	54
<i>tert</i> -Butyl acrylate	43-107	193	Ethylene- <i>trans</i> -1,4-cyclohexyldicarboxylate	18	-
2- <i>tert</i> -Butylaminoethyl methacrylate	33		Ethylene isophthalate	51	
Butyl glycidyl ether	-79		Ethylene malonate	-29	
Butyl methacrylate	20		Ethylene 2,6-naphthalenedicarboxylate	113	
<i>tert</i> -Butyl methacrylate	118		Ethylene oxide	-66	66
4- <i>tert</i> -Butylstyrene	127		Ethylene terephthalate	72	285
<i>tert</i> -Butyl vinyl ether	88	250	2-Ethylhexyl acrylate	-50	
Butyl vinyl ether	-55	64	2-Ethylhexyl methacrylate	-10	
ϵ -Caprolactone	-60		2-Ethylhexyl vinyl ether	-68	
Cellulose nitrate	53		Ethyl methacrylate	65	
Cellulose tripropionate			Ethyl vinyl ether	-43	86
<i>cis</i> -Chlorobutadiene	-20	80	4-Fluorostyrene	95	
<i>trans</i> -Chlorobutadiene	-40	101	Formaldehyde	-82	181
2-Chlorostyrene	119		Hexadecyl acrylate	35	
3-Chlorostyrene	90		Hexadecyl methacrylate	15	
4-Chlorostyrene	110		Hexyl acrylate	-57	0
Chlorotrifluoroethylene	52	214	Hexyl methacrylate	-5	51
2-Cyanoethyl acrylate	4		2-Hydropropyl methacrylate	76	
Cyclohexyl acrylate	19		Hydroquinone- <i>alt</i> -epichlorohydrin	60	
Cyclohexyl methacrylate	82		2-Hydroxyethyl methacrylate	57	
Cyclohexyl vinyl ether	81		Indane	85	
2,6-Dichlorostyrene	167		Isobornyl acrylate	94	
Diethylaminoethyl methacrylate	20		Isobornyl methacrylate	110	

¹See catalog numbers Z41.247-3, Z41.253-4, Z22.171-6, Z42.334-3 and Z22.195-3 in the *Book Section*.



Reference: Polymer Properties

Thermal Transitions of Homopolymers: Glass Transition & Melting Point (continued)

Table I: Thermal Transitions of Homopolymers: Glass Transition (T_g) & Melting Point (T_m) Temperatures (continued)

Repeating Unit	T_g (°C)	T_m (°C)	Repeating Unit	T_g (°C)	T_m (°C)
Isobutyl acrylate	-24		<i>p</i> -Phenylene terephthalamide	345	
Isobutylene	-73		Phenylene vinylene	80	380
Isobutyl methacrylate	53		Phenyl methacrylate	110	
Isobutyl vinyl ether	-19	185	Phenyl vinyl ketone	74	
<i>cis</i> -Isoprene	-63	28	Potassium acrylate	184	
<i>trans</i> -Isoprene	-66	65	Propylene, atactic	-13	
<i>N</i> -Isopropylacrylamide	85-130		Propylene, isotactic	-8	178
Isopropyl acrylate, isotactic	-11	162	Propylene, syndiotactic	-8	
Isopropyl methacrylate	81		Propylene oxide	-75	68
Methacrylic acid	228		Propyl vinyl ether	-49	78
Methacrylic anhydride	159		Sodium acrylate	230	
Methacrylonitrile	120		Sodium methacrylate	310	
2-Methoxyethyl acrylate	-80		Styrene, atactic	100	
4-Methoxystyrene	113		Styrene, isotactic	100	240
Methyl acrylate	10		Tetrabromobisphenol A carbonate	157	
Methyl cellulose			Tetrafluoroethylene	117	327
Methyl glycidyl ether	-62		Tetrahydrofuran	-84	
Methyl methacrylate, atactic	105, 120		Tetramethylene adipate	-118	
Methyl methacrylate, syndiotactic	115	200	Tetramethylene terephthalate	17	232
4-Methylpentene	29	250	Thio-1,4-phenylene	97	285
Methylphenylsiloxane	-86		2,2,2-Trifluoroethyl acrylate	-10	
Methylstyrene	20		Trimethylene oxide	-78	
3-Methylstyrene	97		Trimethylsilyl methacrylate	68	
4-Methylstyrene	97		2,4,6-Trimethylstyrene	162	
Methoxy vinyl ether	-31	144	Vinyl acetal	355	82
Nylon 4,6 (tetramethylene adipamide)	43		Vinyl acetate	30	
Nylon 6 (-caprolactam)	52	225	Vinyl alcohol	85	220
Nylon 6,6 (hexamethylene adipamide)	50	265	Vinyl benzoate	71	
Nylon 6,9 (hexamethylene azelamide)	58		Vinyl 4- <i>tert</i> -butylbenzoate	101	-
Nylon 6,10 (hexamethylene sebacamide)	50	227	Vinyl butyral	322	49
Nylon 6,12 (hexamethylene dodecanediamide)	48		Vinyl carbazole	227	320
Nylon 11 (ω -undecanamide)	42	189	Vinyl chloride	81	227
Nylon 12 (ω -dodecanamide)	41	179	Vinyl cyclohexanoate	76	
1-Octadecene	55		Vinyl ferrocene	189	
Octadecyl methacrylate	-100		Vinyl fluoride	41	200
1-Octene	-83		Vinyl formal	105	
Octyl methacrylate	-20		Vinylidene chloride	-18	200
Oxy-4,4'-biphenyleneoxy-1,4-phenylenesulfonyl-1,4-phenylene	230	290	Vinylidene fluoride	-40	171
Oxy-1,4-phenylenesulfonyl-1,4-phenyleneoxy-1,4-phenyleneisopropylidene-1,4-phenylene	165	190	2-Vinyl naphthalene	151	
Oxy-1,4-phenylenesulfonyl-1,4-phenylene ether	214	230	Vinyl pivalate	86	
<i>p</i> -Phenylene isophthalamide	225	380	Vinyl propionate	10	
			2-Vinylpyridine	104	
			4-Vinylpyridine	142	
			1-Vinyl-2-pyrrolidone	54	
			Vinyl trifluoroacetate	46	



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Refine Search	EXP/Padmanabhan AND ACLM/"characterized in tha
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PAT. NO.	Title
1 6,627,649	T <u>Pharmaceutical compositions containing in combination two antagonists selective of arginine-vassopressin V receptors, even of V1 a and V2 receptors</u>
2 6,613,942	T <u>Glucagon antagonists/inverse agonists</u>
3 6,589,504	T <u>Compounds and methods for diagnosing and treating amyloid-related conditions</u>
4 6,521,646	T <u>Dibenzoazulene derivatives for treating thrombosis, osteoporosis, arteriosclerosis</u>
5 6,509,508	T <u>Process for producing (meth)acrolein and (meth)acrylic acid</u>
6 6,479,708	T <u>Biphasic catalysis in water/carbon dioxide micellar systems</u>
7 6,476,275	T <u>Process for the catalytic selective oxidation of a hydrocarbon compound in presence of mesoporous zeolite</u>
8 6,476,259	T <u>Catalysts for methacrylic acid production and process for producing methacrylic acid</u>
9 6,452,055	T <u>Method for the catalytic hydroformylation of olefins in a microemulsion</u>
10 6,452,045	T <u>Process for improving yields in a disproportionation reaction (high yield Henkel)</u>
11 6,448,457	T <u>Method for hydrogenating carbonyl compounds</u>
12 6,403,843	T <u>Process for the preparation of 1-(3,4-dimethoxyphenyl)ethanol</u>
13 6,399,818	T <u>Process for producing unsaturated aldehydes and unsaturated carboxylic acids</u>
14 6,380,262	T <u>5-membered ring compounds</u>
15 6,369,257	T <u>Hydroformylation of olefins using supported bis(phosphorus) ligands</u>
16 6,350,916	T <u>Selective oxidation of alcohols to aldehydes or ketones</u>
17 6,350,910	T <u>Stereospecific isomerisation of allylamines with the aid of immobilized phosphorated chiral ligands</u>
18 6,320,069	T <u>Production of optically active ketone</u>
19 6,291,713	T <u>Process of transferring .alpha., .beta.-unsaturated alkyl groups to electrophiles</u>
20 6,274,771	T <u>Continuous process for the manufacture of 3,5,5-trimethylcyclohexa-3-en-1-one (B-</u>

isophorone)

- 21 6,255,296 **T** Composition and method for treating a patient susceptible to or suffering from a cardiovascular disorder or disease
 - 22 6,225,513 **T** Process for the production of phenol and acetone from cumene
 - 23 6,222,076 **T** Process for the preparation of substituted cycloketones
 - 24 6,215,028 **T** Process for the preparation of cyclohexanones
 - 25 6,191,291 **T** Substituted cyclopentene derivatives and method for preparing the same
 - 26 6,187,963 **T** Processes for the manufacture of acrolein derivatives
 - 27 6,177,417 **T** Cholanic acid ring based 4-(trifluoroacetyl)phenyl derivatives, process for preparation and use thereof
 - 28 6,166,263 **T** Processes for the manufacture of acrolein
 - 29 6,156,936 **T** Hydroformylation of olefin feeds containing dienes
 - 30 6,150,145 **T** Process for the production of degradation products of fatty acids
 - 31 6,127,582 **T** Hydroformylation process
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